

3. RCW 66.28.180 NEW LEGISLATION FOR 1995

PROBLEM:

RCW 66.28.180 requires price postings by wholesalers and manufacturers of malt liquor, beer and wine. The current process requires reviewing massive amounts of paper files and is extremely labor intensive.

The primary objective of price postings, which began many years ago, is to preclude the sale of products at unfair prices, most easily achieved when one sells for below cost. The Board uses price postings as evidence when there is a complaint filed against either a manufacturer or wholesaler involving pricing violations.

SOLUTION:

Under the proposed change, postings could still be reviewed by the Board field agents/auditors when investigating a complaint or conducting a periodic audit.

BENEFITS:

- Eliminates monthly posting approval by the Board.
- Requires individual manufacturers, wholesalers and importers to maintain notarized postings at their respective businesses.
- Still requires such postings be forwarded to the Board and open to inspection.
- Still prohibits changes to postings other than for specific distress purposes.
- Still prohibits any quantity discounts to be offered.
- Requires one set of postings be provided to the Board for filing and review by anyone interested.

ANTICIPATED PROPONENTS:

- Washington State Liquor Control Board
- Some wholesalers as individual licensees
- Some manufacturers as individual licensees

ANTICIPATED OPPONENTS:

- Beer and Wine Wholesalers Association (Phil Wayt - 352-5252)
- Some retailers
- Some manufactures

PLAINTIFF'S EXHIBIT	
CASE NO.	CV04-0360F
EXHIBIT NO.	111

Resp to Costco RFP
6202

Proposal No. 3

SPECIAL NOTE:

As a result of the budgetary reduction mandated in 1993, the price postings program was identified as one program which could be eliminated. In order to eliminate the function, the statute requiring the Board to perform the duties (RCW 66.28.180) had to be amended during the 1994 session. A bill was prepared pursuant to instructions from OFM. When circulated, no legislators in the Senate Labor and Commerce Committee would sign as sponsors. In the House Commerce and Labor Committee, Chairman Heavey sponsored the bill, but it did not receive a hearing. There was considerable opposition from the wholesalers association. An organized effort to prevent a hearing in either chamber will result from introduction of the legislation unless some form of agreement can be worked out with the Beer and Wine Wholesalers. [Further discussions with their Executive Director following conclusion of the 94 session indicate the group is willing to allow the Board to eliminate the responsibility of reviewing price postings if effective safeguards can be implemented.]

POSSIBLE FISCAL IMPACT:

By eliminating the need to have price postings filed with the Board on a monthly basis, the Board would be able to reassign 2.0 FTE's, representing approximately \$64,000, to the licensing technician program where they would perform functions directly associated with processing applications for liquor licenses. Because of the transfer of responsibilities to the license technician section, there would be no fiscal impact, but an important public service could be staffed more effectively.

ACTUAL LANGUAGE:

RCW 66.28.180 Price modification by certain persons, firms, or corporations--Board notification and approval. ~~((It is unlawful for a))~~ A person, firm, or corporation holding a certificate of approval issued under RCW 66.24.270 or 66.24.206, a beer wholesaler's license, a brewer's license, a beer importer's license, a domestic winery license, a wine importer's license, or a wine wholesaler's license within the state of Washington ~~((to modify any prices without prior notification to and approval of the board.))~~ shall meet the following requirements:

(1) Prices of all liquor products sold by licensees identified in this act must be on file at the business location licensed by the board. Such price listings shall be notarized by the first working day of the month and made available for inspection by anyone who requests them during normal business hours.

(2) Prices are to be set for the entire calendar month.

(3) Prices may be changed during the first three business days of the month, by all parties, to meet competitive issues.

(4) Prices may be changed for distress situations: i.e., beer nearing the end of shelf life as established by the manufacturer's coding. Prices may only be reduced on product in distress, not all like items in inventory, and only for small quantities, fewer than 50 cases, of age-dated products for less than 30 days from the expiration date.

- (5) Beer and wine shall not be sold at a price less than its cost of acquisition.
- (6) A current and valid set of price postings shall be provided directly to the board, and shall be available for inspection and copying.
- (7) The board's staff may inspect such postings either at its offices or at the licensees' place of business to insure compliance with this act.
- (8) Quantity discounts are prohibited.

Resp to Costco RFP
6204

Proposal No. 3